

**ENTERED**

December 04, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**IN RE APACHE CORP.  
SECURITIES LITIGATION§  
§  
§ CIVIL ACTION NO. 4:21-cv-00575  
§  
§**ORDER**

In advance of the December 6, 2023 hearing on Lead Plaintiffs' Motion for Class Certification, I want to give the parties time to prepare for how I plan to start the hearing. I first want to hear Defendants' response to the arguments raised for the first time in Lead Plaintiffs' reply brief and Notice of Supplemental Authority.<sup>1</sup>

In essence, I want to hear what Defendants' sur-reply would have said, if they had filed one. I especially want to hear Defendants' response to the following assertion: "Defendants' concession of price impact prior to the 'Focus Period' . . . dooms their attempts to rebut the Presumption, as the law requires Defendants to prove that their alleged misstatements had **no** price impact whatsoever during the **entire** Class Period." Dkt. 121-1 at 9–10. To the extent that Defendants' response would direct me to caselaw not already mentioned in the record, Defendants are welcome to file a one-page letter in advance of the hearing listing the cases to which they will direct my attention.

Lead Plaintiffs will have every opportunity to respond to these arguments during the hearing, and I almost always request supplemental briefing after class certification hearings. I assure the parties that everyone will be fully heard. I simply

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<sup>1</sup> I am not suggesting that Lead Plaintiffs did anything improper by raising these arguments for the first time in their reply brief. The unfortunate nature of class certification is that the party only starts when defendants identify the reasons why they oppose class certification and, without a sur-reply, plaintiffs' responses to that opposition go unaddressed until the hearing on class certification is well underway.

want to start the hearing by picking up where this conversation left off—with Lead Plaintiff's reply brief and Notice of Supplemental Authority.

SIGNED this 4th day of December 2023.

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a horizontal line and a small upward stroke.

ANDREW M. EDISON  
UNITED STATES MAGISTRATE JUDGE